

Message Text

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ACTION AF-18

INFO OCT-01 ADP-00 L-03 PER-05 ABF-01 RSR-01 RSC-01 A-01

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P 171605Z AUG 73

FM AMEMBASSY NIAMEY

TO SECSTATE WASHDC PRIORITY 6175

UNCLAS NIAMEY 2566

E.O. 11652: N/A

TAGS:

SUBJECT: INSTALLATION COMPLEMENT AND NON-COMPLEMENT EMPLOYEES'
GON SOCIAL SECURITY COVERAGE

FOR AF/EX

REF: NIAMEY 2474 AND DEPARTMENT'S 160614

1. AGREEMENT TRANSMITTED TO MOFA ALONG WITH DIPLOMATIC NOTE ASKING FOR SIGNING WEEK OF AUGUST 20. AGREEMENT (APPROVED BY DEPARTMENT AND TRANSMITTED DEPARTMENT OM JULY 3, 1973) DOES NOT REPEAT NOT SPECIFICALLY INCLUDE OR PRECLUDE RETROACTIVITY. AGREEMENT, HOWEVER, CITES LAW NO. 65-116 OF AUGUST 18, 1965 AND LAW NO. 67-025 OF FEB 2, 1967 AS BASIS. LAW NO. 65-116 CROSS-REFERENCES LAW NO. 65-115 OF SAME DATE. LATTER, INTER ALIA, COMPELS EMPLOYERS TO PARTICIPATE IN GON SS SCHEME RETROACTIVE TO DATE OF EMPLOYEE EOD. ON 2/14/73 GON SENIOR SOCIAL SECURITY OFFICIALS AGAIN WERE ADAMANT ON ISSUE OF RETROACTIVITY. GON OFFICIALS STATE THAT CASE COULD BE MADE FOR AN EARLIER DATE FOLLOWING FROM 1965 DECREES, BUT THEY HAVE BEEN WILLING TO ACCEPT 1/1/67 AS STARTING DATE FOR EMBASSY EMPLOYEES AND EMBASSY OFFICIALS HAVE TACITLY OR IMPLICITLY ACCEPTED THIS DATE OVER THE LONG YEARS OF NEGOTIATION.

2. AFTER A DELAY OF MANY YEARS IN ENANCTMENT OF SOCIAL BENEFITS LONG ENJOYED BY EMPLOYEES OF ALL OTHER
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PROGRESSIVE LOCAL ORGANIZATIONS, AMERICAN GOVERNMENT

WILL NOW SUFFER ACUTE EMBARRASSMENT IF IT HEDGES ON RETROACTIVITY. FURTHER, OUR EMPLOYEES WILL SUFFER LOSS FIVE YEARS' RETIREMENT BENEFITS FROM GON. SUM INVOLVED FOR COMPLEMENT AND NON-COMPLEMENT EMPLOYEES LESS THAN DOLS 15,000.

3. EMBASSY ALREADY SUFFERING EMBARRASSMENT WITH LOCAL GOVERNMENT IN LINGERING NEGOTIATIONS. CLIMATE NOT SUCH THAT EMBASSY CAN CLAIM OR EVEN MAKE MENTION OF DIPLOMATIC IMMUNITY CONCERNING RETROACTIVITY SINCE GON OFFICIALS SEE US AS DELINQUENT WHEN COMPARED TO OTHER EMBASSIES (INCLUDING FRENCH, GERMAN, REPUBLIC OF CHINA) AND LOCAL EMPLOYERS. GON OFFICIALS CONSIDER THEY HAVE SHOWN PATIENCE AND SPIRIT OF COMPROMISE WHICH CANNOT BE DENIED.

4. EMBASSY FEELS IT CANNOT DELAY ENACTMENT BEYOND SEPTEMBER 2. MUST STRONGLY URGE THAT RETROACTIVITY BE ACCEPTED AND THAT DEPARTMENT AUTHORIZE EMBASSY SIGN AGREEMENT DURING WEEK OF AUGUST 20.

5. EMBASSY HAS SIGNED CONTRACTS FOR FOUR U.S. GOVT AGENCIES WITH SMALL NIGERIEN CONTRACTOR COVER 80 EMPLOYEES PREVIOUS PAID FROM PETTY CASH. WHILE THESE CONTRACTS DO NOT SPECIFY RETROACTIVITY RETIREMENT SEGMENT AS SUCH, THEY DO REQUIRE NIGERIEN CONTRACTOR COMPLY WITH LOCAL LAWS WHICH REQUIRE RETROACTIVITY. CONTRACTOR AND EMBASSY WILL IMMEDIATELY COME UNDER PRESSURE LOCAL SOCIAL SECURITY ADMINISTRATION MAKE RETROACTIVE RETIREMENT PAYMENTS TO 1/1/67 AS ABOVE. EMBASSY'S POSITION DELICATE SINCE SUCH CONTRACTS ARE UNKNOWN IN NIGER AND REGARDED AS "EXPLOITATION OF LABOR". IF EMPLOYEES DO NOT RECEIVE FULL RETROACTIVE RETIREMENT PROTECTION IN THIS TRANSFER, U.S. GOVERNMENT AGENCIES WILL BE IN TOTALLY UNTENABLE POSITION OF APPEARING TO HAVE EMPLOYED EXTRAORDINARY AND UNETHICAL MEANS TO AVOID SOCIAL RESPONSIBILITIES WHILE SHIFTING ONUS FOR NON-COMPLIANCE TO A NIGERIEN.

6. IN THIS PATERNALISTIC SOCIETY, OUR SEEMING RELUCTANCE PARTICIPATE FULLY IN TRADITIONAL LOCAL PRACTICES BEARING ON BASIC SOCIAL JUSTICE THREATENS UNDERMINE OUR PROGRAMS HERE.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 17 AUG 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973NIAMEY02566
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: NIAMEY
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730831/aaaaawqz.tel
Line Count: 108
Locator: TEXT ON-LINE
Office: ACTION AF
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: NIAMEY 2474 AND DEPARTMENT'S 160614
Review Action: RELEASED, APPROVED
Review Authority: kelleyw0
Review Comment: n/a
Review Content Flags:
Review Date: 05 DEC 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <05-Dec-2001 by reddocgw>; APPROVED <05 MAR 2002 by kelleyw0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: INSTALLATION COMPLEMENT AND NON-COMPLEMENT EMPLOYEES' GON SOCIAL SECURITY COVERAGE
TAGS: ELAB, NG
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005